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VAGRANCY LAW; ITS FAULTS AND THEIR REMEDY.

JOHN LISLE.¹

"There is a time when all things shall become new. This maxim is verified in the following historical deduction, wherein are set forth, what laws for the poor were anciently in this kingdom, what the laws are now; and what laws have been made by ingenious and public spirited men from time to time, for the amendment of the same."

"What the author himself hath proposed, he is not so sanguine as to expect that it will have a better success than what others have offered before him. His principal design is to excite attention; and, from a comprehensive view of the subject, to enable every reader to form his own judgment."

So wrote Richard Burn on January 15th, 1764, in the preface to the best history of the English Poor Laws yet published. And it will serve well to begin this short article on vagrancy. For the past and present history of vagrancy is confused with that of the care of the impotent poor, with little, and that but a quantitative, distinction in the penalties imposed throughout the past five hundred years. This distinction should, of course, be qualitative, as there is similarity but no identity between the two classes. It has been said that the first legislation against vagrants was passed in 1744. This statement, however, is equivocal, for the word vagrant in England has a significance quite different from that usually accepted in America, and is roughly equivalent to tramp, while in this country it connotes all the shiftless able-bodied poor. This difference in terminology must be kept in mind in studying the history of our subject.

In order to grasp fully the present status of the law of vagrancy, a knowledge of its past is necessary, which presupposes not only a knowledge of the statutes, but also of the evils they were made to remedy, so that by applying laws suited for one condition and evil, to different problems, we will not strain them beyond the point of elasticity, with an easier remedy close at hand.

Prior to the accession of Edward II, the existence of serfdom precluded modern vagrancy; a vagrant in those days was in the first place a tramp and necessarily a criminal. It was about the middle of the XIV century that poverty in a modern sense and with it vagrancy developed. From the beginning of the reign of Edward III, throughout

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the following hundred and fifty years, the poor could get alms at the monasteries. Until the Act of 27 Hen. VIII, C. 25, a man who had to beg in the highway while possibly a vagrant in the American sense of the word, could obtain food through ecclesiastical institutions for the support of the deserving poor. From this fact, an error arose which has not been yet fully eradicated: the failure to distinguish the three classes of poor—the impotent, those who will work, and the able-bodied, who will not work.

The error has been given an historical basis by the English Law of Settlement. In the earlier days, the migrant was necessarily a criminal, and was returned to his overlord. Later, labor was scarce, and the laborer was not allowed to leave his parish. Still later, the impotent migrant was returned to his parish because he was potentially a charge wherever he went. In the earlier days, none but the impotent had any opportunity to beg, because of serfdom. And they were encouraged so to do in order to relieve the church of the burden of their support, while later the ecclesiastical orders, in a desire for power, encouraged certain classes to devote their time to other pursuits than breadwinning, always subject, however, to laws of migration and license. Thus, the poor laws were made for poor cripples and against poor migrants, and no provision was made for the able-bodied poor, who refused work at home because the relation of the laboring class to society precluded their existence.

Cripples were allowed to beg within their own parish, to distribute the burden of their support, and were kept there to prevent them from becoming a charge on strangers; the able-bodied poor were not allowed to leave their parishes, because of the scarcity of labor. The class of able-bodied poor, who refused to work, had either to obtain alms from the monasteries, for which some return (possibly not labor in a strict sense) was necessary, or starve, i. e., they worked or died. The English poor laws were formed to meet the ideas which had underlain such a system without regard to one intervening fact: the destruction of the monasteries. From 1535, the poor did as best they could, with a constant increase in the number of tramps. The able-bodied who would not work, escaped starvation by going from the place where their pleas were useless, to impose upon strangers. Cripples begged in the streets as before. 43 Eliz. C. 2, passed in 1643, the codification of all the acts of the preceding century, is today the source of all poor law legislation. To it, and next in importance, is added the Settlement Act (14 Car. II, C. 12), providing for the removal of every poor person, likely to become a charge (limited by 35 Geo. III, C. 101, to those who shall have become actually chargeable). As a result

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of the historical conditions, which we have mentioned, the English law lost sight of the criminality of those who remained in their own parish, able to work but refusing to do so, and living on the county. This is the class with which we are now dealing.

This class is now as numerous and dangerous as the tramps in Edward II's reign. They constitute a host in every large American city, living in disgusting filth, spreading disease by contagion and inheritance, giving examples of sexual immorality and every kind of dishonesty and crime. It must be destroyed by provision for its existing members of incurable dye, and by the reformation of those who are entering as novitiates, and the prevention of new converts.

To do so, the laws must be radically changed. They are based as we have said, on social relations now passed away. They were formed in an age when science did not consider the abnormality of such a class or distinguish between those who became a burden on the parish through subjective imperfection, and those whose state was due to objective social conditions. They were formed in an age when legislation was entirely punitive, not corrective. They are the direct descendants of statutes whose object was to prevent the migration of the able-bodied poor, and to place the burden of the impotent upon the home parish.

It is not a question of *making* a new division of the poor, but of giving it recognition, when political and social conditions have made it. The poor are sociologically of three classes, and in obedience to the dictates of positive legal philosophy, the laws must be threefold in order that the requirements of each class may be met. Tramps, we may add, are criminals of an entirely different type. Their delinquency is not due to their failure to bear their share of the social burden (a failure nearly every criminal shares), but in their dangerous characters, being responsible, as they are, for the burning of barns in which they seek shelter, and of assaults upon housewives left in charge of lonely farm houses. They are a rural type, as the vagrant is pre-eminently an urban class. A tramp may well be a vagrant, but a vagrant is not necessarily a tramp. The latter is a positive, contradistinguished from a negative criminal. We will not include tramps as within the scope of this article. They come within the jurisdiction of the county criminal courts, and should be prosecuted by the district attorney, while the poor of all three classes are a state concern.

Class A. The impotent poor "whosoever, man or woman, being so aged or diseased that he or she cannot work, not having whereon to live."

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Class B. The able-bodied poor, able and willing to work, but unable to find it.

Class C. Vagrants, "who as long as they may live of begging, do refuse to labor, giving themselves to idleness and vice."

To dismiss the first two classes with a word, as they are not the object of this article, but yet too closely related to it to be totally disregarded before taking up even the definition of the third.

The impotent poor should be taken care of in the county of their home. They are objects of charity and of public duty as well. They are not objects of punishment, but of bounty. They should not be removed from their friends, but should be placed in institutions regulated as private charitable "homes." Care should be taken, however, to prevent the entrance into such an institution of any except those who physically qualify. A refusal to remain therein should be an act of vagrancy.

Class B. The solution of the problem of dealing with this class is almost insuperable. The only possible hope for a satisfactory plan lies in the betterment of all social conditions, but a state commission acting as an "intelligence office," and supplying transportation, would solve the difficulty to a large extent. The membership in this class might consist in those who apply for work and those attempting and failing to qualify as members of Class A. A refusal to accept the work offered, or a discharge or a definite number of refusals or discharges might put upon the applicant the burden of disproving that such was not an act of vagrancy.

The question of vagrancy is, of course, chiefly concerned with the present law and its amendment in all the particulars, in which new provisions could be made more suited to the conditions and evils of to-day. In order, however, to attempt such constructive work, not only is a knowledge of past and present conditions necessary, so that the reformer may see the trend of development, but an accurate knowledge of the legislation of the past, which shows what was and what was not found expedient for the conditions that have prevailed.

The first mention of vagrants was made in the year 1349, when the "Statute of Laborers" (23 Edw. III), an anadronim, "because many valiant beggars, as long as they may live of begging, do refuse to labour, giving themselves to idleness and vice, and sometimes to theft and other abominations," prohibited the giving of alms, "so that thereby they may be compelled to labor for their necessary living." Forty years later, 12 Rich. II, after prohibiting laborers from wandering, provided "of every person that goeth begging and is able to serve, it shall be done as of him that departeth out of the hundred," and

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that "beggars impotent to serve" shall remain in their parish. One hundred years later in the reign of Henry VII, this act was found too expensive, and for this reason and because of the death of many convicts in jail, "all such vagrants, idle and suspect persons living suspiciously" were, after certain preliminary punishment, to be driven out of town. Eight years later, by 19 Hen. VII, C. 12 (1503), this act was repealed and such persons were to be conveyed to where "they were born, or else to the place where they last dwelled or made their abode by the space of three years." By 22 Hen. VIII, C. 12, "If any person being whole and mighty in body, and able to labor, be taken in begging or be vagrant and can give no reckoning how he lawfully gets his living, the constable may arrest and bring him to a justice," who shall inflict the same ultimate punishment as under the act of 19 Hen. VII; that is, return him to his parish. This act also provides for the impotent poor, who may be licensed to beg. But so far, with the exception of 23 Edw. III, all these acts only carry out the old idea that all the poor must stay in their settlement, the impotent to beg, the able-bodied to work or starve.

In 1535, 27 Hen. VIII, C. 25, providing that all sturdy vagabonds shall be "set and kept to continual labor, so as to get their own living," and "And all idle persons, russelers, calling themselves servingmen, having no masters, shall be ordered to all intents as sturdy vagabonds," enacts that the impotent poor shall be relieved. This is the first distinctive act which provides for even two classes. The prior acts when distinctive, at all, made no provision for the impotent. The distinction was simply for the purpose of allowing the impotent to beg. In the reign of Edward VI, (1 Edw. VI, Cap. 31547), also the distinction is clearly made: "Whosoever, man or woman, being not lame, impotent or so aged or diseased that he or she cannot work, not having whereon to live, shall, like a serving man wanting a master, or like a beggar, or after any such other sort, be lurking in any house or loitering or wandering by the highway side, or in streets, cities, towns or villages, not applying themselves to some honest labour, and so continuing for three days, or running away from their work, every such person shall be taken for a vagabond," and the provision of 27 Hen. VII for the relief of the impotent poor was re-enacted. By 3 and 4 Edw. VI, C. 16 (1549), "Common laborers of husbandry, able in body, using loitering, and refusing to work for reasonable wages, shall be punished as strong and mighty vagabonds." These acts show a third class besides, tramps and the impotent poor. But in the last act in which the third class is accurately described, it is assimilated with that of tramps.

This brings us to the reign of Elizabeth, in which the modern

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Poor Laws of England were begun, and codified in 43 Eliz. C. 2 (1601). The prior acts of this reign, however, deal more directly with our subject. 14 Eliz. C. 5, provided for the imprisonment of "all rogues, vagabonds and sturdy beggars." And for the full expression what persons shall be intended to be rogues, vagabonds, and sturdy beggars, it is enacted that, *inter alios*, "all persons, being whole and mighty in body, and able to work, having not land, or masters, nor using any lawful employment and can give no reckoning how they lawfully get their living * * * and all common laborers, able in body, loitering, and refusing to work for reasonable wages, * * * shall be deemed rogues, vagabonds, and sturdy beggars." By 18 Eliz. C. 3, houses of correction are provided "for setting on work and punishing all such as shall be taken as rogues or once punished as rogues, and by reason of the uncertainty of their birth, or of their dwelling by the space of three years, ought to be abiding and kept within the same county."

The power to erect houses of correction was re-enacted by 39 Eliz. C. 4 (1597), and continued in force until 1713. And this act described vagrants as *inter alios*, "all idle persons going about either begging or using any subtil craft or unlawful games and plays—all jugglers, tinkers, peddlers, and petty chapmen, wandering; all wandering persons and common laborers, using loitering, refusing to work for common wages, not having living otherwise to maintain themselves, and every one fulfilling this description is to be returned "to the parish where he was born, if the same be known by his confession or otherwise; if not to the parish where he last dwelt by the space of one year; there to put himself to labor as a true subject ought to do." He is to be conveyed to the house of correction or common gaol," there to be employed in work until he be placed in some service, and so continue by the space of one year, or not being able in body, until he be placed in some almshouse."

43 Eliz. C. 2 (1601), the source of all modern poor laws, as we have said, gives the justices of the peace power "to commit to the house of correction or common gaol such poor persons as shall not employ themselves to work; being appointed thereunto by the overseers," subject to a right of appeal to next quarter sessions.

The act of 17 Geo. II, C. 5 (1737) (repealing 13 Geo. II, C. 24), enacted that *inter alios*, "all persons who, not having wherewith to maintain themselves, live idly and refuse to work for common wages; and all persons going about from door to door, or placing themselves in streets, highways or passages, to beg or gather alms in the parishes where they dwell, shall be deemed idle and disorderly persons, and

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they shall be sent to the house of correction for a month * * * all petty chapmen and peddlers, wandering abroad, and lodging in ale houses, barns, outhouses, or in the open air, not giving a good account of themselves; all * * * persons wandering abroad and begging shall be deemed rogues and vagabonds * * * and all persons apprehended as rogues and vagabonds, and escaping or refusing to go before a justice, or to be examined on oath * * * or giving a false account of themselves, and all rogues and vagabonds, who shall escape from the house of correction," and recidivist rogues or vagabonds, shall be deemed incorrigible rogues. A rogue or vagabond is confinable in the house of correction for six months, an incorrigible rogue for two years. They are, or course, removable under the Settlement Act, and "The place to which vagrants are removed shall set them on work; and if they refuse to work, they shall be sent to the house of correction."

The 31st Section of Gilbert's Act, 22 Geo. III, C. 33 (1782), directs that idle and disorderly persons, able but refusing to work shall be prosecuted under 17 Geo. II. Another action makes the guardian liable for finding employment for those who can and are willing to work.

"The Vagrant Act" (5 Geo. IV, C. 83, 1842) closely follows 17 Geo. III, C. 5, with its three divisions. It describes idle and disorderly persons as *inter alios*, "every person being able wholly or in part to maintain himself of herself, or his or her family, by work or by other means, and wilfully refusing or neglecting so to do * * * every person returning to * * * any parish * * * from whence * * * removed," every unlicensed peddler. "Every person wandering abroad and lodging in any barn * * * not having any visible means of subsistence, and not giving a good account of himself or herself * * * every person wandering, and endeavoring, by the exposure of wounds or deformities, to obtain or gather alms * * * shall be deemed a rogue and vagabond." An incorrigible rogue is qualified as in the earlier act.

Thus much for a brief outline of vagrant legislation in England.

Many suggestions for its improvement have been made from time to time by men high in public esteem. It can be safely said that with the exception of Sir Joshua Chill's plan, none went to the extent of abolishing settlements. It is unnecessary to take them up in detail. They dealt largely with the employment of work houses of all the poor, physically able. Such provisions, together with this union of several parishes in one, is now adopted in England, by the last act cited and 4 and 5 Gul. IV. C. 76 (1825).

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Before taking up the faults of the present law, the inaccuracy of its definition and the remedy suited to modern social protection, it will be well to sketch the legislation in a typical state of the United States. Pennsylvania will serve this purpose. The establishment in New York in 1911 of a so-called State Industrial Farm Colony for inebriates and vagabonds was a step in the right direction, but it cures but one branch of the trouble.

In Pennsylvania the Acts of 1766 and 1767 (the latter applying to rural parts of the state), provide for the incarceration of "idle and disorderly persons." They are a close copy of the English laws, with the same phraseology. It is the attempt of a new people, under new conditions, to apply the law of their habitat. As an example of Colonial legislation, we quote the important section of the act of Feb. 8, 1766 (P. L. 417), in full. It is entitled: "An act for the better employment, relief and support of the poor within the city of Philadelphia, the district of Southwark, the townships of Moyamensing and Passyunk, and the Northern-Liberties."

"And whereas great numbers of rogues, vagabonds, and other idle and dissolute persons, frequently come from the neighboring provinces into the said city, district and townships, and there take up their abode, without following any labor, trade or business, or having any visible means of subsistence, and are not only dangerous members of society, but in the end become burdensome to the public. BE IT THEREFORE ENACTED, that it shall and may be lawful for any justice of the peace of the city or county aforesaid to apprehend, and, upon due examination and proof, commit to the said house of employment, all rogues, vagabonds, and other idle, dissolute and disorderly persons found loitering or residing in the said city, district or township aforesaid, who follow no labor, trade, occupation or business, and have no visible means of subsistence, whereby to acquire an honest livelihood, there to be kept at hard labor for any term not exceeding three months; and the said managers are required to receive such persons, and employ them, according to the tenor of such commitments."

This was amended by the act of February 21, 1767, P. L. 430, and the term was reduced to one month.

In both acts, the similarity of the phrases with the English statutes is to be noted, as it is both the cause and result of the error to be avoided of applying, through misinterpretation, old norms to new conditions. This was true at the date of passing this act, for the Law of Settlement was never effectively enforced in America, and is even more marked now, especially in large urban communities. A still greater vice of this kind is shown by the act of 1767, which we will quote also in its important sections.

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Act of Feb. 21, 1767, P. L. 433, "An act to prevent the mischief arising from the increase of vagabonds, and other idle and disorderly persons, within this province."

"Whereas the number of rogues, vagabonds, and other idle and disorderly persons, daily increases in this province, to the great loss and annoyance of the inhabitants thereof. For remedy whereof, BE IT ENACTED, That all persons who shall unlawfully return to such city, township or place from whence they have been legally removed, by order of two justices of the peace, without bringing a certificate from the city, township or place to which they belong; and all persons who, not having wherewith to maintain themselves and their families, live idly and without employment, and refuse to work for the usual and common wages given to other laborers in the like work in the city, township or place where they then are, and all persons going about from door to door, or placing themselves in streets, highways, or other roads, to beg or gather alms in the city, township or place where they dwell; and all other persons wandering abroad and begging; and all persons who shall come from the neighboring colonies, or any of them, into any township or place within this province, and shall be found loitering or residing therein, and shall follow no labor, trade, occupation or business, and have no visible means of subsistence, and can give no reasonable account of themselves, or their business in such township or place, shall be deemed, and are hereby declared to be, idle and disorderly persons, and liable to the penalties hereby imposed; and that it shall and may be lawful for any justice of the peace of the county, where such idle or disorderly persons shall be found, to commit such offenders (being thereof legally convicted before him, on his own view, or by the confession of such offenders, or by the oath or affirmation of one or more credible witness or witnesses) to the work-house of the said county, there to be kept at hard labor, by the keeper of such work-house or gaol, for any time not exceeding one month."

And in a later part, the provision:

"That any person or persons who shall conceive him, her or themselves aggrieved by any act, judgment or determination of any justice or justices of the peace out of session, in and concerning the execution of this act may appeal to the next General Sessions of the city or county, giving reasonable notice thereof, whose order thereupon shall be final."

Showing, as it does, the imitation of English procedure, tends to increase the delusion that the same questions were to be found in the new country as in the old.

In 1836, the equivalent of the act of 43 Eliz. was passed, providing for the removal of the poor "likely to become chargeable" to "where

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he was last legally settled," and describing the persons liable to the penalties imposed by law upon vagrants, as

"All persons who shall unlawfully return into any district, whence they have been legally removed, without bringing a certificate from the city or district to which they belong; all persons who, not having wherewith to maintain themselves and their families, live idly and without employment, and refuse to work for the usual and common wages given to other laborers in the like work, in the place where they then are; all persons who shall refuse to perform the work which shall be allotted to them by the overseers of the poor as aforesaid; all persons going about from door to door, or placing themselves in streets, highways, or other roads, to beg or gather alms, and all other persons wandering abroad and begging; all persons who shall come from any place without this commonwealth to any place within it, and shall be found loitering or residing therein, and shall follow no labor, trade, occupation or business, and have no visible means of subsistence, and can give no reasonable account of themselves, or their business in such place."

There was no provision for commitment in this act, hence the penalties under the acts of 1766 as amended and 1767, were applied. In 1866, provisions were made for the commitment of vagrants in Allegheny to the work-house for from thirty days to six months (Feb. 1, 1866, P. L. 8), while in the same years, provisions were made for the vagrants, in Franklin, Erie, Crawford, Venango and Warren counties (P. L. 259, 720). On June 2nd, 1871 (P. L. 1301), a house of correction was established for Philadelphia, to which vagrants were to be sent.

Five years later, the act of May 8th, 1876 (P. L. 154), as amended by that of May 3rd, 1878 (P. L. 40), the last codification of the vagrancy law was passed. It first, almost repeating the words of the act of 1836, describes vagrants as

"I. All persons who shall unlawfully return to any district whence they have been legally removed without bringing a certificate from the proper authorities of the city or district to which they belong, stating that they have a settlement therein. II. All persons who shall refuse to perform the work which shall be allotted to them by the overseers of the poor, as provided by the Act of June thirteenth, one thousand eight hundred and thirty-six, entitled, An Act relating to the support and employment of the poor. III. All persons going about from door to door or placing themselves in streets, highways or other roads, to beg or gather alms, and all other persons wandering abroad and begging who have no fixed place of residence in the township, ward or borough in which the vagrant is arrested. IV. All persons who shall come from any place without this commonwealth to any place within it and

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shall be found loitering or residing therein, and shall follow no labor, trade, occupation or business, and have no visible means of subsistence, and can give no reasonable account of themselves or their business in such place." And then provides, inter alia: * * * If any person shall be found offending in any township or place against this Act, it shall and may be lawful for any constable or police officer of such township or place, and he is hereby enjoined and required, on notice thereof given him by any of the inhabitants thereof, or without such notice on his own view, to apprehend and convey or cause to be conveyed such person to a justice of the peace or other committing magistrate of the county, who shall examine such person and shall commit him, being thereof legally convicted before him, on his own view or by the confession of such offenders, or by the oath or affirmation of one or more creditable witnesses, to labor upon any county farm or upon the roads and highways of any city, township or borough, or in any house of correction, poor-house, work-house or common jail, for a term of not less than thirty days, and not exceeding six months, and shall forthwith commit him to the custody of the steward, keeper or superintendent of such county farm, house of correction, poor-house, work-house, or common jail, or to the supervisors or street commissioners, and overseers of the poor of the respective county, city, borough or township, wherein such person shall be found, as in his judgment shall be deemed most expedient; the said justice of the peace or committing magistrate in every case of conviction, shall make up and sign a record of conviction annexing thereto the names and records of the different witnesses examined before him, and shall, by warrant, under hand, commit such person as aforesaid; PROVIDED, any person or persons who shall conceive him, her or themselves aggrieved by any act, judgment or determination of any justice of the peace or alderman in and concerning the execution of this act, may appeal to the present or next general quarter sessions of the city or county, giving reasonable notice thereof, whose orders thereupon shall be final. That it shall be the duty of the custodian or custodians of any such vagrant, to take active efforts to provide work for every vagrant committed under this act, and not disqualified by sickness, old age or casualty; and whenever labor cannot be provided in the place to which any vagrant is committed, it shall be lawful for such custodian or custodians, and it is hereby declared to be his or their duty, with the approval of the board of directors, overseers, guardians or commissioners of the poor, as the case may be, to contract with the proper authorities of any such township, borough, city, county or other person, to do any work or labor outside the place of commitment; in all cases the work of labor shall be suited to the proper discipline, health and capacity of such vagrant, and he shall be fed and clothed in a manner suited to the nature of the work engaged in and the condition of the season; and when any

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vagrant is committed under the provisions of this act to the custody of the supervisors or street commissioners and overseers of the poor of any township, borough, city or county, it shall be their duty to provide for him comfortable lodging or quarters, either in a station house or other building; the violation or neglect of any of the provisions of this section shall be deemed to be a misdemeanor, and the person so offending, on conviction thereof, in the proper court, shall be sentenced to undergo an imprisonment for a term not exceeding three months, and to pay a fine not exceeding one hundred dollars, either or both, in the discretion of the court."

This covers the present law of Pennsylvania, with the exception of an act providing that anyone, applying to wayfarers' lodge and refusing to work, is a vagrant (13 June, 1883, P. L. 100), and an act (26 Jan., 1895, P. L. 377) allowing counties to erect workhouses, of which, because of the expense, but one county has taken advantage.

The "Tramp Act" (29 Apr., 1879, P. L. 33), as we have said, provides that "any person going about from place to place begging, asking or subsisting upon charity, and for the purpose of acquiring money or a living, and who shall have no fixed place of residence or lawful occupation in the county or city in which he shall be arrested, shall be taken and deemed to be a tramp."

The last act (May, 1909, P. L. 308) as strange as the anachronism or the "Statutes of Laborers" provides that a settlement may be gained.

"(1.) By any person who shall come to inhabit in a county, and who shall, for himself and on his own account, execute any public office legally placed therein during one whole year. (2.) By any person who shall be charged with and pay the proportion of any public taxes or levies for one year. (3.) By any person who shall bona fide take a lease of any real estate of the yearly value of ten dollars, and shall dwell upon the same for one whole year, and pay the said rent. (4.) By any person who shall become seized of any freehold estate within such district, and who shall dwell upon the same for one whole year. (5.) By any unmarried person, not having a child, who shall be lawfully bound or hired as a servant within such district, and shall continue in such service during one whole year."

This completes the history of the vagrancy acts in Pennsylvania, with the exception of the provision governing peddling, which may be briefly stated as forbidden, except for cripples.

From this survey, it can be seen that vagrants are persons who go about from door to door, or place themselves in streets, highways or other roads, to beg or gather alms, or who wander abroad and beg, without any fixed place of residence in the township, ward or borough in which arrested; or who come from any place out of Pennsylvania and are found loitering or residing therein and follow no labor, trade,

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occupation or business, who have no visible means of subsistence and can give no reasonable account of themselves or their business in such places. These compose the largest classes of vagrants. Anybody who receives food and shelter from a charitable wayfarers' lodge in Philadelphia, and refuses to do the work required of him may be committed as a vagrant. In addition to these classes, although not of practical importance today, at least in large urban counties, where the question of settlement is more often than not disregarded, are those who unlawfully return to any district after having been legally removed, without a certificate from the proper authorities of the city or district to which he or she belongs, showing a settlement therein, and those who refuse to perform the work allotted to them according to their ability, by the overseers of the poor.

In order to sustain a conviction, some act of vagrancy must be proven which brings the accused within one of the above classes. The concealment of an act of beggary by the pretense of selling some article, such as shoestrings, or of playing some hand organ or musical instrument is of no avail as a defense.

Anyone coming within the description of a vagrant may be arrested by a constable or policeman on complaint, or on the officer's own initiative, and taken before a justice of the peace, or magistrate, who can convict and commit him to labor upon any county farm or upon the roads, or in any house of correction, poorhouse, workhouse or common jail for a definite term of not less than thirty days, or more than six months (except those who receive shelter, and refuse work, under the act of 1883, who are committed for not more than thirty days). Labor is the essence of the sentence. Where, therefore, a workhouse has been established under the act of 1895, the commitment must be made to it, and in counties which have a house of correction but no workhouse, the vagrant must be sent there. No vagrant can be committed to an almshouse.

The situation is one in which the laws of a medieval island country are being strained to meet the conditions of a modern world, where transportation, employment, society and the means and theories of social protection have changed beyond recognition. The unit is no longer the parish (a division which never existed in Anglo-Saxon America), or even the county, but the state. Delinquency, even when passive, is recognized as a condition to be met and fought, because of its potentiality for harm. Urban life now exists in a form unknown a century ago.

The faults of the system are three. The first consists in the continuance of bad association, the lack of new associates, the fact that

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the county can give no instructive work, but from financial necessity must supply only the poorest kind of labor. The second consists in the failure of the definition to include clearly the apparently impotent poor and the able bodied, who are in fact shiftless, and who will develop into full-fledged vagrants for lack of corrective restraint, for the present definition only includes the worst class. The third fault lies in the shortness of the term and the lack of any provision for recidivity.

The result is the contamination of every large city by the multitude of diseased immoral citizens, living in degradation, preying upon the charitable, breeding crime by example and inheritance, increasing the corrupt vote and tending to retard the advance of civilization physically, morally, mentally and hence socially. We make allusion to the political influence of vagrants to show at the start one of the great difficulties in effecting our remedy, the loss of a large portion of the electorate. The chief fault of the present system, apart from those of definition of its members, is the shortness of the term, and the quality of the work imposed. A short term in the county workhouse where all kinds and conditions are huddled pell-mell, with work of the meanest character has no beneficial effect upon the shiftless. It does not tend to the formation of character by giving the prisoner any trade or employment which will raise him from the bottom of the social scale. Incarceration in a county workhouse means that he is thrown with his old companions, without even a leavening of new associates. The term of the sentence precludes any recovery from a mental and physical state of degradation, even if the course of employment and the associations were different. All this goes without saying; proof is superfluous. These faults must be accepted as existing.

The question of defining the members of this class is beset with difficulties. As we have said, certain acts by impotent poor and by those who allege that they have been unable to find work, ought to connote vagrancy. This requires a definition of these two classes. We suggest the following:

"All persons not having means of subsistence for themselves, and those legally and actually dependent upon them, who because of bodily or mental disease or extreme age are unable to maintain themselves and those similarly conditioned and legally dependent upon them, shall be deemed to belong to the class of the "impotent poor." These should, if of a certain age, have the right to be supported in the alms-houses of the county where they were born or have acquired a settlement, but refusal to be placed therein, or leaving thereof, should constitute an act of vagrancy.

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The able-bodied poor, unable to obtain work sufficient to support themselves and those legally and actually dependent upon them should constitute the second class.

"All persons not having means of subsistence for themselves and those similarly conditioned and legally dependent upon them, who are not unable to maintain themselves and those legally and actually dependent upon them, because of bodily or mental deficiency or extreme age, if over a certain age, shall be deemed to belong to the class of the "able-bodied poor," and shall be supplied work, at common wages. Any attempt by any member of this class to obtain relief as impotent, or any refusal to accept or keep the work offered by the commission shall be an act of vagrancy.

All persons (1) who shall commit an act of vagrancy, or (2) who shall receive food and shelter from any charitable society or organization and refuse to do the work required of them, provided, however, that such work shall not exceed one day's work of six hours, for food and lodging for a space of twenty-four hours; (3) who shall attempt to beg or gather alms or who shall beg or gather alms in the streets, highways, roads or public places, or of persons therein, and all persons not having means of subsistence for themselves, and those similarly conditioned and legally and actually dependent upon them; (4) who shall follow no legal labor, trade, occupation or business, with no visible means of existence, without any reasonable account of themselves or their business.

A central farm colony should be established for the detention of such vagrants, and to it every vagrant should be committed. The commitment should not be for a definite term. The necessity of an indeterminate sentence for all anti-social acts of an habitual nature is too well recognized by legal medicine as well as modern criminology to need justification here. It is sufficiently apparent that no criminal or delinquent habit can be said to be curable in a definite period, to show the necessity of a course of corrective treatment, fixed not by legislative act, but by actual "indicia" of reform, to enable us to dispense with proof of a theory generally accepted by modern criminologists. Every vagrant could be paroled or discharged by the Board of Managers at any time after commitment. Present procedure with relation to such classes should be observed so far as consistent with the new act. Vagrants should be local charges. Any constable or police officer, on notice or without notice, on his own view, could arrest a vagrant and take him before a committing magistrate, who should examine him and commit him, if guilty, to the State Industrial Farm Colony, for a term of not less than three months. Any person so convicted should

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be allowed to take his case to the present or next general quarter sessions, either by appeal or by writ of *habeas corpus*, and the orders of such court thereupon should be final, unless an appellate court with original jurisdiction in *habeas corpus* allowed another writ.

The object of such State Industrial Farm Colony should be the detention, discipline, instruction and reformation of vagrants. It should be under the control of a board of managers, appointed by the governor. It should have control, among other things, of the classification, parole, discharge and retaking of inmates, the system of compensation and credits by marks or otherwise, and the scheme of employment, which should be as far as possible of most advantage to the inmates upon discharge.

By these three reforms, in definition, term and place of commitment, the Poor Laws could be made an effective factor in the advance of civilization, and the dictates of medicine, legal philosophy and general sociology could be given an opportunity of showing their practical efficiency. By making the definition include all the shiftless, the increase of vagrancy, which has been the object of complaint in the preambles of nearly every English and American act from the time of Henry VII, will be stopped. Vagrancy is a habit which develops with time, and until it is treated from its inception, and until poverty due to local conditions can be prevented by the state from developing into shiftlessness, there will be no possibility of curing the incipient beggar by physical and moral training and by the teaching of trades. This is a matter for legislative definition, which treatment will not be possible until by legislative act, the burden of such a course is reduced to within the financial power of the counties by means of a single large farm colony. We have emphasized the farm colony because of the well-recognized curative effect of outdoor life, and because of the need of severing old ties in overcoming any habitual delinquency. A longer term than is now possible in most states is an unavoidable consequence of the acceptance of an educational remedy for a habitual delinquent. It follows the other two reforms as of course.

We can but add that the reformation of the Poor Law not only "nearer to our heart's desire," but more in conformity with existing social conditions, is not only an object for the reformer, but a historical necessity which will be effected by juridical evolutive processes. We can but aid necessity, which, subjective and objective in nature, seems either to follow our lead, when we assert ourselves, or to drag us abjectly, when we will not act, to the goal which history has determined.